Mumbai Cricket Association

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MCA Election 2022 – 2025

Order of the Electoral Officer of MCA

Dated 11/10/2022

Order on the Objection raised during the Scrutiny of Nomination Forms, to the Nomination Paper of Shri Sandeep Patil for post of President of MCA.

BACKGROUND:

1.1 Scrutiny of all the Nomination Papers received for the post of Office Bearers, Apex Council & Governing Council of MCA was fixed at 11:00 am on 11th October 2022 in the Office of MCA.

1.2 During the scrutiny of the Nomination Papers for the post of President, objections against the candidature of Shri. Sandeep Patil were raised by Shri. Amol Kale and Mr. Sanjay Naik (both have also filed their nomination papers for the post of President). Both Shri. Amol Kale and Shri. Sanjay Naik submitted the objection in writing and also explained the same orally. The objection of both Shri. Amol Kale and Shri. Sanjay Naik reads as follows :

> *"I, the undersigned have filed my nomination for the post of President of Mumbai Cricket Association. I would like to file my objection against Mr. Sandeep Patil's nomination as he is ineligible under rule 38 (v) of the constitution of MCA. Mr. Sandeep Patil's son is married to the daughter of Mr. Salil Ankola who is the Chairman of Senior Selection Committee of MCA. Therefore, there is closed relationship between Mr. Sandeep Patil & Mr. Salil Ankola.*

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I am also attaching herewith an order dated 27/12/2021 passed by the Ethics Officer cum Ombudsman of Mumbai Cricket Association in the complaint filed by Mr. Vikas Aklekar against Mr. Unmesh Khanvilkar wherein the Ethics Officer cum Ombudsman has decided on similar conflict of interest case.

Considering the above, I would request you to reject the nomination filed by Mr. Sandeep Patil. "

1.3 Shri. Sandeep Patil refuted the above objection. His request to give the photocopies of the written objections and about 2 hours' time to file reply in writing was agreed to by the E.O. He was granted time up to 02:00 pm to file his reply in writing. Both Shri. Amol Kale and Shri. Sanjay Naik agreed with above decision of E.O.

1.4 Shri Sandeep Patil has given his written reply which is as below :

"At the outset, I would like to deny any allegations of conflict of interest against me. It is pertinent to note that I have not yet been elected in MCA and neither do I hold any post in MCA at this point of time.

Further I would like to bring to your notice that the notice that the complaint of conflict of interest can only be heard and decided by the Ethics Officer as per Rule No. 39 of the MCA Constitution"

1.5 Mr. Sanjay Naik has submitted his reply to the above reply of Mr. Sandeep Patil which is as below:

"This has reference to my complaint filed against the candidature of Mr. Sandeep Patil.

In this context, Mr. Sandeep Patil in the meeting had admitted to his relationship with Mr. Salil Ankola.

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Hence it is clear case of Conflict of Interest. Hence request you to treat his nomination as invalid."

PROVISION IN CONSTITUTION

2.1 MCA Constitution provides for the disqualification for the post of President especially through rule 6(5), 6(1), and Rule 7 of Rules for Election. The Electoral Officer has to only check whether a candidate is disqualified to contest for any post of Officer Bearer on the basis of above disqualifications.

2.2 Clause 38(2) provides that :

> *"Within a period of 15 days of taking any office under the MCA, every individual shall disclose in writing to the Apex Council any existing or potential event that may be deemed to cause Conflict of Interest, and the same shall be uploaded on the website of the MCA. The failure to issue a complete disclosure, or any partial or total suppression thereof would render the individual open to disciplinary action which may include termination and removal without benefits. It is clarified that a declaration does not lead to a presumption that in fact a questionable situation exists, but is merely for information and transparency"*

2.3 Clause 39(1) of the constitution provides for the Ethics Officer for the purpose of guidance and resolution in instances of Conflict of Interest :

> *"The Association shall appoint an Ethics Officer at the Annual General Meeting for the purpose of guidance and resolution in instance of Conflict of Interest. The Ethics Officer shall be a retired judge of a High Court so appointed by the Association after obtaining his/her consent and on terms as determined by the MCA in keeping with the dignity*

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and stature of the office. The term of an Ethics Officer shall be one year, subject to a maximum of 3 terms in office"

2.4 Clause 38(v) under which both Shri. Amol Kale and Shri. Sanjay Naik have filed objection reads as follow

"Position of Influence: When the individual occupies a post that calls for decisions of governance, management, or selection to be made, and where a friend, relative or close affiliate is in the zone of consideration or subject to such decision-making, control or management. Also, when the individual holds any stake, voting rights or power to influence the decision of franchisee / club / team that participates in the commercial leagues under MCA"

3 ANALYSIS:

I, after carefully going carefully through the provisions of the MCA Constitution (especially Clause 6, 33, 38, 39 and Rules for Election), objection filed by Shri. Amol Kale and Shri. Sanjay Naik (including the attached judgement of Ethics Officer cum Ombudsman in Complaint No. 7 of 2021 by Vikas Ankush Aklekar against Unmesh Khanvilkar) and the replies given by Shri Sandip Patil & Shri Sanjay Naik, find that:

I. The Constitution of MCA provides for a separate Ethics Officer, for the purpose of guidance and resolution in instances of 'Conflict of Interest' (Clause 39 of Constitution).

II. Constitution further provides that, within a period of 15 days of taking any office under the MCA, every individual shall disclose in

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writing to the Apex Council any existing or potential event that may be deemed to cause a 'Conflict of Interest'.

In the instant case, Shri Sandeep Patil is not holding any office as on today.

III. The judgement cited by Candidates Shri Amol Kale and Shri Sanjay Naik, in Complaint no. 7 of 2021 of the Ethics Officer dated 27/12/2021 in case of Mr Vikas Ankush Aklekar v/s Mr Unmesh Khanvilkar talks of disqualification of Shri. Unmesh Khanvilkar on account of two reasons:

a) has Completed more than six years in two consecutive posts in MCA and hence, the Respondent should face the cooling off period with immediate effect (para 67),

b) after considering all the relevant factors, especially in view of the reasoning in para 45 above, it is further declared that the conflict of interest of the Respondent with the MCA is not tractable (para 68 &45).

IV. It seems that Shri. Unmesh Khanvilkar did not disclose about his existing or potential Conflict of Interest within 15 days of taking over of his office in MCA, which led to his disqualification. In view of above the cited case of Shri. Unmesh Khanvilkar is not applicable at this point of time.

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V. There is no provision in the Constitution for Electoral Officer to disqualify a candidate from contesting the election for any post, either on the basis of existing or potential event that may be deemed to cause a 'Conflict of Interest'. Issue of conflict of interest does not fall under the jurisdiction of EO.

VI. From the above provisions in the Constitution, it is clear that the objection raised by Candidates the Shri Amol Kale and Shri Sanjay Naik cannot be entertained, thus needs to be rejected.

ORDER:

In view of the above facts and the legal provisions, the objection raised by Shri Amol Kale and Shri Sanjay Naik against the candidature of Shri Sandeep Patil for the post of President of MCA is hereby REJECTED and Nomination Form of Shri Sandeep Patil is ACCEPTED on the basis of scrutiny done and he is declared as a VALID candidate for the post of President of MCA.

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(J.S.Saharia)
Electoral Officer of MCA.
20=17 pm